IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No. 18961 of 1997

Between:

Sri Parvathi Talkies,Bhattiprolu, Rep.by it's Properietor K.Ganapathi Rao,S/o.Sree Rama Murthy, Bhattiprolu Village & Mandal, Guntur Dist.

..... PETITIONER

AND

1 The Government of A.P., Rep.by it's Secretary,Home (Gen.A)Dept., Secretariat Buildings, Hyderabad.
2 The District Collector, Guntur , Guntur District.
3 The Joint Collector, Guntur , Guntur District.
4 The Sub-Collector, Tenali, Guntur District.
5 Mandal Revenue Officer, Bhattiprolu Mandal, Bhattiprolu, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction, more particularly one in the nature of Writ of Mandamus declaring the orders passed by the 1st respondent in G.O.Rt.No.2007,Home (Gen.A) Department ,dt.1.8.1997 confirming the orders of the 4th respondent in his Rc.No.4264/93-G, dt.15.11.1993 null and void, illegal, arbitrary and violation of the principles of natural justice and direct the respondent to grant B-Form licence in favour of the petitioner.

Counsel for the Petitioner : Mr.G.KRISHNA MURTHY

Counsel for the Respondents : G.P. FOR HOME

The Court made the following :

ORDER:

The present writ petition is filed questioning G.O. Rt No.2007 Home (Gen.A) Department dated 1-8-1997 confirming the orders of the
Sub-Collector, Tenali dated 15-11-1993 directing the petitioner to approach the District Collector for obtaining "B" form licence and imposing the penalty @ Rs.20/- per day from 1-4-1984 to 18-10-1993 for running the Parvathi Talkies without valid licence.

The facts, in brief, which led to filing of the present writ petition are that the theatre viz., Sri Parvathi Talkies, was started in the year 1948 and was leased out for a period of 5 years from 1-1-1979 and on completion of the lease period in the year 1984, the petitioner has taken over the theatre and made an application on 1-4-1984 for renewal of
B-Form licence for a period of five years from 1-4-1984 and the B-form licence was renewed by order dated 18-8-1988. Again the petitioner applied for further renewal by paying the required fee for the period
1989 to 1993. Since, no intimation was received from the concerned authorities as regards renewal or rejection of the B-form licnece, the petitioner presumed that the licence was deemed to have been renewed, and continued to run the theatre in question. While the matter stood thus, a notice dated 18-10-1993 was issued to the petitioner to immediately stop running of the theatre, on the ground that he failed to produce the B-form licence. One more notice dated 19-10-1993 was issued to the petitioner to close the theatre on the ground that the B-form licnece was not produced. Questioning the said order, the petitioner filed W.P. No. 16090 of 1993 and the same was disposed by order dated
27-10-1993. The operative portion of the order reads as under;

> "In the circumstances, the responders are directed to accept the renewal fees paid for 1989 though paid after the due date, imposing some penalty on him and permit him to run the theatre. They are also directed to consider the application dated 17-10-1993 and pass appropriate orders thereon within three days from the date of receipt of

this order."

Pursuant to orders of this Court dated 27-10-1993, the 4th respondent/Sub Collector considered the matter and passed orders dated 15-11-1993 directing the petitioner to approach the District Collector for obtaining B-form licence and imposed a penalty of Rs.20/- per day from
1-4-1984 to 18-10-1993. Questioning the said order, the petitioner filed an appeal before the Government/first respondent under section 7 of the A.P. Cinema Regulation Act, 1955 read with Rule 18 of the A.P. Cinema Regulation Rules, 1970 and obtained stay orders on 2-12-1993 and continued to run the theatre. Ultimately, the appeal filed by the petitioner was dismissed vide G.O. Rt No.2007 dated 1-8-1997. The said orders are impugned in the present writ petition.

This Court while admitting the writ petition granted conditional interim order, suspending the impugned order subject to condition that the petitioner deposits half of the penalty payable as per the order dated 15-11-1993 of the Sub Collector, Tenali within one month from the date of order and on such payment, the authorities are directed to consider the application filed by the petitioner for transfer of B-form licence.

Learned counsel for petitioner submitted that pursuant to the interim orders granted by this Court, the petitioner paid an amount of Rs.34,880/- vide challan No. 157 dated 6-9-1997 and also applied for grant of B-form licence for the period from 1993 to 1998. It is further stated that the Sub-Collector, Tenali enquired into the matter and recommended for issuance of B-form licence subject to production of structural soundness certificate from the Executive Engineer- Roads and Buildings department. That the petitioner produced the said certificate and the B-form licence was granted to the petitioner vide proceedings
Rc No.347/2002-C1 dated 28-8-2002.

Learned counsel for petitioner further submitted that since the petitioner has complied with all the requisite conditions and
obtained B-form licence from the competent authority by order dated
29-8-2002, the penalty imposed by order dated 15-11-1993 may be set aside or in the alternative may be modified to the extent of amount already paid i.e. Rs.34,880/-.

On the other hand, learned Government Pleader for Home supported imposition of penalty and contended that subsequent grant of licence, cannot absolve the petitioner from paying the penalty imposed for the period during which the petitioner had run the theatre without licence.

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Having regard to the fact that the petitioner had paid half of the penalty amount pursuant to the interim order of this Court dated
13-08-1997, and further fact that the petitioner has been granted B-form licence subsequently, and since near about nine years have elapsed from the date of filing of the writ petition, and having regard to the fact that pursuant to the interim order, the petitioner had deposited half of the demanded amount i.e., Rs.34,880/- vide challan No.157 dated 6-9-1997
I am of the considered opinion that the interests of justice would be met if the penalty imposed vide order dated 15-11-1993 is reduced to the extent of the amount, which this Court had directed the petitioner to pay vide the interim order dated 13-8-1997.

Accordingly, the writ petition is disposed of reducing the penalty imposed in the impugned order to 50% of the amount demanded, which had already been paid by the petitioner pursuant to the interim order date13-8-1997. No costs.

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N.V.RAMANA, J

Date: 18.3.2005

TVK/DA

To

1 The Secretary, Government of A.P., Home (Gen.A)Dept.,
Secretariat Buildings, Hyderabad.
2 The District Collector, Guntur , Guntur District.

3 The Joint Collector, Guntur , Guntur District.
4 The Sub-Collector, Tenali, Guntur District.
5 Mandal Revenue Officer, Bhattiprolu Mandal, Bhattiprolu, Guntur District.

6 Two CCs to the G.P. for Home, High Court Buildings, Hyderabad (OUT).

7 Two CD copies.